

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket № 14306US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Serial No. 10/675,081

Filed: September 30, 2003

For: METHOD AND SYSTEM FOR
MEDIA EXCHANGE NETWORK
FUNCTIONALITY SYNCHRONIZED
WITH MEDIA BROADCASTING

Examiner: Patrick A. Ryan

Group Art Unit: 2427

Confirmation No. 5083

Electronically Filed on 07-JAN-2010

REPLY BRIEF

MS: APPEAL BRIEF-PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR § 41.41, the Appellant submits this Reply Brief in response to the Examiner's Answer mailed on November 9, 2009. Claims 1-31 are pending in the present Application. The Appellant has responded to the Examiner in the Examiner's Answer, as found in the following Argument section.

As may be verified in his final Office Action (page 4), dated January 14, 2009 ("Final Office Action"), claims 1-31 were finally rejected. Pending claims 1-31 are the subject of this appeal.

The present application includes claims 1-31, which are pending in the present application. Claims 1-31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,240,555 ("Shoff"). The Appellant identifies claims 1-31 as the claims that are being appealed. To aid the Board in identifying corresponding arguments, the Appellant has used the same headings in the Argument section of this Reply Brief as the headings found in the Appellant's corresponding Revised Brief on Appeal. The Revised Brief on Appeal has a date of deposit of September 21, 2009.

STATUS OF THE CLAIMS

Claims 1-31 were finally rejected. Pending claims 1-31 are the subject of this appeal.

ARGUMENT

I-A. Shoff Does Not Anticipate Claims 1-31

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

In response to Appellant's Revised Brief on Appeal, the Examiner is using the following new argument stated on pages 10-14 of the Examiner's Answer:

Appellant presents that Shoff does not disclose or suggest the limitation of "the broadcast television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home" because "Shoff discloses that the Internet data (which the Examiner analogizes to Appellant's 'synchronized functionality') can be a Web page and can be combined with the video data to form a single signal" and "Shoff's supplemental information (e.g. Web page) is in hypertext format, which is obviously different from the format of the television video data being displayed in pane 16" (Brief Page 8 and Shoff Col. 2 Lines 32-52 and Figs. 1, 8a-8c; with further reference to Col. 12 Lines 24-38). Appellant additionally summarizes that "the Examiner has also equated Appellant's 'synchronized functionality' with Shoff's 'target resource'" and "[a]s explained by Shoff, the 'target resource' contains digital data, which 'defines the supplemental content to enable viewer interactivity'" (Brief Page 9 and Shoff Col. 9 Line 66-Col. 10 Line 17).

(a) *The Examiner first notes that, only Shoff's "digital data" is used to address the claimed "synchronized functionality" and by no means has the Examiner equated Shoff's "Internet data" to the claimed "synchronized functionality" (Office Action Page 4). Additionally, (although not presented for appeal) the Examiner has cited Shoff's "supplemental content" in addressing Appellant's "supplemental information" as presented in Claims 7-9 (Office Action Page 7), where, according to Shoff, "supplemental content" can be "text, graphics, video, pictures, sound, or other multimedia types" (Col. 5 Lines 16-22) and can be constructed as a Hypertext file (Col. 5 Lines 23-60). The Examiner stresses the importance of the distinction between Shoff's "digital data" and Shoff's "supplemental content" (as Shoff describes in Col. 9 Lines 66-Col. 10 Line 58).*

The Examiner agrees with Appellant regarding the function of Shoff's digital data", namely that it "defines a display layout prescribing how the supplemental content and the video program are to appear, and defines timing information to synchronize presentation of the supplemental content with the video content program" (Brief Page 9). Regarding the transmission of the digital data, Shoff discloses:

"The video stream and supplemental content can be transmitted together, as a single signal, or separately. In the former implementation, the digital data is packaged with the video stream and transmitted as one signal from the headend. The viewer computing unit receives the single signal at tuner 98 and separates the digital data from the video signal (steps 172 and 174) [of Fig. 7]" (Col. 10 Lines 18-24).

Additionally, Shoff discloses (Col. 2 Lines 23-50) that Internet data (i.e. supplemental content) is combined with the video data to form a single signal and that the Internet data is transmitted during the vertical blank interval (VBI) between successive frames of the video data.

Regarding Appellant's Claim 1 limitation "the broadcast television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home", it is the Examiner's position that Shoff's disclosure of digital data packaged with a video stream and transmitted as one signal from the headend addresses this limitation. In particular, Appellant's claims do not specify a particular format of broadcast television or synchronized functionality. For support of this particular limitation, Appellant has provided Page 12 Lines 4-5 of the Specification, which state:

The TV screen 106 of the media processing system 101 may provide a user with the capability to view broadcast media content and synchronized functionality 111.

The Examiner additionally submits Page 12 Lines 24-26 of the Specification as a description of the claimed "synchronized functionality", which state:

The synchronized functionality may provide the user or a subscriber with the capability to request supplemental information related to the media content associated with a particular media broadcast.

It is the Examiner's position that the claimed "same format" is dictated by the transmission medium in which the media content and synchronized functionality are received, in accordance with Element 111 of Figure 1, as described above. The Examiner submits that Shoff's transmission of

digital data packaged with the video stream as one signal, which is received by a single tuner, is in accordance with this interpretation of Claim 1 (as shown by Shoff in Fig. 2 and described in Col. 4 Lines 35-65). Therefore, the Examiner submits that Shoff does in fact demonstrate "the broadcast television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home" because Shoff's digital data is packaged with the video stream as one signal and transmitted from the headend for reception by a single television tuner.

(b) Appellant additionally presents (Brief Pages 9-13) that Shoff does not disclose or suggest the Claim 1, 11, and 21 limitation "wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program" because "Shoff's broadcast video signals are only being selectively re-transmitted by the headend 22 [of Figure 2], since the broadcast signals originate from a satellite feed or a cable system feed" (Brief Pages 9-10).

The Examiner notes that Figure 2 of Shoff does not demonstrate supplying broadcast signals to Headend 22 from a satellite feed or a cable system feed. Figure 2 of Shoff demonstrates that Headend 22 contains a Continuous Media Server 42 supplying Video Programs 40 (as described in Col. 4 Lines 42-Col. 5 Line 5), however no satellite feed or cable system feed is shown for delivering the video programs to the headend. Appellant has not provided a prior art teaching or factual bases in supporting a conclusion that one of ordinary skill in the art would exclusively associate a cable headend as a "master facility for receiving ... television signals" and selectively retransmitting the signals to a viewer (Brief Page 10). Shoff additionally discloses in Col. 12 Lines 26-30, in reference to the digital data, that "the developer is empowered to create both the content and the presentation format of how the content and the broadcast program are displayed to the viewer." Shoff also states that "[t]he supplemental content can be developed and provided by the same provider that distributes the video content, or by an independent service provider" (Col. 3 Lines 10-13), where the digital data is packaged with the video content (as established above). Therefore, the Examiner submits that, as shown in Figure 2, it is reasonable to conclude that Shoff's Headend 22 is the point of origin for both the digital data (claimed synchronized functionality) and the video program (claimed broadcast television program).

(emphasis and argument numbering added by Appellant)

The Appellant respectfully disagrees. Since the Examiner has provided new arguments in response to Appellants Brief, the Appellant is responding to the new arguments herein below.

In reference to argument (a) above, the Examiner states "only Shoff's "digital data" is used to address the claimed "synchronized functionality" and by no means has the Examiner equated Shoff's "Internet data" to the claimed "synchronized functionality"". The Appellant assumed the Examiner equated Shoff's "Internet data" to the claimed "synchronized functionality" since it is only Shoff's "Internet data" that is "for display on a television screen within a home," as recited in Appellant's claim 1. The Examiner has now explicitly stated that only Shoff's "digital data" (part of the "target resource") is used to address the claimed "synchronized functionality". This argument is still deficient.

As explained by Shoff, the "target resource" contains digital data, which "defines the supplemental content to enable viewer interactivity". The digital data also defines a display layout prescribing how the supplemental content and the video program are to appear, and defines timing information to synchronize presentation of the supplemental content with the video content program. See Shoff at col. 9, line 66 – col. 10, line 17. In this regard, even though Shoff's digital data facilitates the display of the supplemental information, **Shoff's digital data is not the actual supplemental information, and Shoff's digital data is never communicated "for display on a television screen within a home". In fact, Shoff's digital data is never even displayed on a television screen within a home (only the supplemental information is).**

Therefore, the Appellant maintains that Shoff does not disclose or suggest "the broadcast television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home," as recited in Appellant's claim 1.

In reference to argument (b) above, the Examiner states that the "Appellant has not provided a prior art teaching or factual bases in supporting a conclusion that one of ordinary skill in the art would exclusively associate a cable headend as a "master facility for receiving ... television signals" and selectively retransmitting the signals to a viewer." As a supplemental support for the argument stated in page 10 of the Appeal Brief, the Examiner is referred to the definition of the term "headend" stated in page 508 of "The Authoritative Dictionary of IEEE Standards Terms" (Seventh Edition, December 2000). According to the IEEE Standards Terms Dictionary, a "headend" is also called a "central **re-transmission** facility", with access to both inbound and outbound traveling signals. This definition further supports the fact that Shoff's broadcast video signals are only being **selectively re-transmitted** by the headend 22, since the broadcast signals originate from a satellite feed or a cable system feed, i.e., **Shoff's broadcast signals originate remotely from the headend 22. In this regard, Shoff's broadcast video signals and the supplemental content do not originate from the same broadcast provider location.**

Therefore, the Appellant maintains that Shoff does not disclose or suggest " wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program," as recited in Appellant's claim 1.

The Appellant respectfully submits that independent claims 1, 11 and 21 are allowable.

I-C. Rejection of Dependent Claims 2, 12 and 22

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

The Appellant respectfully submits that dependent claims 2, 12 and 22 are allowable.

I-D. Rejection of Dependent Claims 3, 13 and 23

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

The Appellant respectfully submits that dependent claims 3, 13 and 23 are allowable.

I-E. Rejection of Dependent Claims 4, 14 and 24

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

In response to Appellant's Revised Brief on Appeal, the Examiner is using the following new argument stated on page 16 of the Examiner's Answer:

Appellant presents that Shoff does not disclose or suggest the limitation of "broadcasting an indication of said at least one synchronized functionality along with the broadcast television program" because Shoff "does not disclose that an indication of the synchronized functionality is

in fact broadcast along with the broadcast television program" (Brief Pages 14-15). Regarding the teachings of Shoff, Appellant additionally presents that "the program source and the supplemental content source are different" and "the headend is not an originating broadcast provider and it is not possible for an indication of available supplemental content ... to be broadcast along with the broadcast television program" (Brief Pages 15-16).

The Examiner has previously presented (Office Action Page 3) that Shoff discloses "the presence of a target specification in the EPG data field 58 in association with the program is an indication that the program is interactive compatible and that there is supplemental content for the program" (Col. 9 Lines 1-5). Shoff additionally states that "[t]he viewer computing unit checks the appropriate channel and time slot of the EPG data structure 48 to determine if the program being carried on the selected channel at this time is interactive" (Col. 8 Line 64-Col. 9 Line 1). Appellant's remaining arguments have been addressed above with reference to Claim 1. Therefore, the Examiner maintains that Shoff teaches the limitation of "broadcasting an indication of said at least one synchronized functionality along with the broadcast television program."

The Appellant respectfully disagrees and points out that the presence of a target specification in the EPG data field 58 in association with the program is simply an indication that there is **supplemental content** for the program (Col. 9, Lines 1-5 of Shoff). However, as clarified above by the Examiner, "only Shoff's "digital data" is used to address the claimed "synchronized functionality". In this regard, since the Examiner has equated Shoff's "digital data" (and not the "supplemental content") to Appellant's "synchronized functionality", the above argument by the Examiner is still deficient as the EPG data field 58 only indicates availability of supplemental content, and not of the digital data. Shoff simply does not provide any indication of the received digital data.

The Appellant respectfully submits that dependent claims 4, 14 and 24 are allowable.

I-F. Rejection of Dependent Claims 5, 15 and 25

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

The Appellant respectfully submits that dependent claims 5, 15 and 25 are allowable.

I-G. Rejection of Dependent Claims 6, 16 and 26

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

The Appellant respectfully submits that dependent claims 6, 16 and 26 are allowable.

I-H. Rejection of Dependent Claims 7, 17 and 27

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

The Appellant respectfully submits that dependent claims 7, 17 and 27 are allowable.

I-I. Rejection of Dependent Claims 8, 18 and 28

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

The Appellant respectfully submits that dependent claims 8, 18 and 28 are allowable.

I-J. Rejection of Dependent Claims 9, 19 and 29

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

The Appellant respectfully submits that dependent claims 9, 19 and 29 are allowable.

I-K. Rejection of Dependent Claims 10, 20 and 30

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

In response to Appellant's Revised Brief on Appeal, the Examiner is using the following argument stated on pages 18-19 of the Examiner's Answer:

Appellant presents that Shoff does not disclose or suggest the limitation of "displaying information related to said performance of said at least a portion of said at least one synchronized functionality" because "Shoff still does not display any information relating to the actual performance of the synchronized functionality (e.g., the act of obtaining the supplemental content)" (Brief Pages 18-19).

The Examiner has previously presented (Office Action Page 7) that EPG 48 of Fig. 3, which is displayed to the user, indicates the existence and location of interactive content by way of Data Field 58 (as Shoff describes in Col. 4 Lines 35-42 and Col. 5 Line 61-Col. 6 Line 22). It is the Examiner's position that the location of interactive content relates to the performance of the synchronized functionality because the information in Data Field 58 enables the supplemental content to be retrieved and presented with the video content. The Examiner additionally notes that the claim language "displaying information related

to said performance of... synchronized functionality" does not actively require the display of "synchronized functionality". Therefore, the Examiner maintains that Shoff teaches "displaying information related to said performance of said at least a portion of said at least one synchronized functionality".

The Appellant respectfully disagrees and points out that the presence of a target specification in the EPG data field 58 in association with the program is simply an indication that there is supplemental content for the program (Col. 9, Lines 1-5 of Shoff). However, as clarified above by the Examiner, "only Shoff's "digital data" is used to address the claimed "synchronized functionality". In this regard, since the Examiner has equated Shoff's "digital data" (and not the "supplemental content") to Appellant's "synchronized functionality", the above argument by the Examiner is still deficient as the EPG data field 58 only indicates availability of supplemental content, and not of the digital data. Shoff simply does not provide any indication of the received digital data, or, for that matter, any information related to the performance of the digital data (equated to the "synchronized functionality").

The Appellant respectfully submits that dependent claims 10, 20 and 30 are allowable.

I-L. Rejection of Dependent Claim 31

The Appellant stands by the argument made in the corresponding section of the Revised Brief on Appeal.

The Appellant respectfully submits that dependent claim 30 is allowable.

CONCLUSION

The Appellant submits that the pending claims are allowable in all respects. Reversal of the Examiner's rejections for all the pending claims and issuance of a patent on the Application are therefore requested from the Board.

The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 07-JAN-2010

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